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APPLICATION NO. FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/079,388 02/20/2002		J. David Carlson	IR-2881(EV)	IR-2881(EV) 8462	
7590 11/17/2003			EXAM	EXAMINER	
Michael M. Gnibus			BUTLER, DOUGLAS C		
Lord Corporati			ART UNIT	PAPER NUMBER	
PO Box 8012		3683			
Cary, NC 27512-8012			DATE MAILED: 11/17/2003		

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Settension of order may be available under the provisions of 37 CPR 1.18(g), in ne event, however, may a raphy to through the distribution of the provision of 37 CPR 1.18(g), in ne event, however, may a raphy to thinkly fill the period for reply specified above is ass than think (50) days, a reply whith the statistic principle of the period for reply specified above is ass than think (50) days, a reply within the statistic principle of the provisional part of the period for reply specified above is ass than think (50) days, a reply within the statistic principle of the period for reply specified period for reply specifie	(₽●		Арр	lication No.	Applicant(s)			
Douglas C. Butler Douglas C. Butler Doug			10/0	079,388	CARLSON ET AL.			
The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extractions of thermapy be varied and the provisions of 37 CPR 1.708(a), in no event, however, may a reply be timely filed Extractions of themapy by available under the provisions of 37 CPR 1.708(a), in no event, however, may a reply be timely filed Extractions of themapy by available under the provisions of 37 CPR 1.708(a). If the period for reply specified above is less than thiny (30) days, a reply which the satulatory minimum of thiny (30) days will be considered linely. If the period for reply specified above is less than thiny (30) days, a reply which the satulatory minimum of the mainting date of his communication. Fairbillot of reply specified above is less than thiny (30) days, a reply which the satulatory minimum of the mainting date of his communication. Fairbillot of reply specified above is less than thiny (30) days and the consideration to become ARANDONED (82.12.5 § 13.3). Period of the specification is FINAL. 2b) This action is FINAL. 2b) This action is non-final. 3) Is since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-35 is/are pending in the application. 4a) Of the above claim(s) 1-19 and 26-32 is/are withdrawn from consideration. 5) Claim(s) 20.21.25 and 33-35 is/are rejected. 7) Claim(s) 1-35 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The crawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is req			Exa	miner	Art Unit			
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.33(a), in no event, however, may a raphy be timely filled. Extensions of time may be available under the provisions of 37 CFR 1.33(a), in no event, however, may a raphy be timely filled. Extensions of time may be available under the provisions of 37 CFR 1.33(a), in no event, however, may a raphy be timely filled. Extensions of time may be available under the provisions of 37 CFR 1.33(a) days, will be considered timely. If NO period for reply is specified above, the maintern statutory period will apply set will expire 3X (e) MCPTHS from the mainting date of this communication. Failus to recy within the set or carriance bear for the mainting date of this communication, even if timely filled, may reduce any example plants term adjustment. Set 37 CFR 1.704(b). Status 1) □ Responsive to communication(s) filled on 22 August 2003. 2a) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 1-35 is/are pending in the application. 4) □ Of the above claim(s) 1-19 and 26-32 is/are withdrawn from consideration. 5) □ Claim(s) 22-24 is/are objected to. 6) □ Claim(s) 22-24 is/are objected to by the Examiner. 10) □ The drawing(s) filed on □ is/are: a) □ accepted or b) □ objected to by the Examiner. Application Papers 9) □ The specification is objected to by the Examiner. 10) □ The drawing(s) filed on □ is/are: a) □ accepted or b) □ objected to by the Examiner. Application Papers 9) □ The application is objected to by the Examiner. 10) □ The drawing(s) filed on □ is/are: a) □ accepted or b) □ objected to by the Examiner. Application Papers 9) □ The coath or declaration								
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	1) Notice 2) Notice	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-94		5) Notice of Informal				

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DETAILED ACTION

- 1. An action on the merits of claims 20-25 and 33-35 considered readable on Species D(embodiment labeled 130d of Figure 3b)is included in this office action with claims 1-19, 26-32 being withdrawn from consideration. 37 C.F.R. § 1.142(b). Election was made without traverse in Paper No. 5 filed on August 22, 2003.
- 2. The International Search Report has been considered. The prior art included in the Report has been considered and has been made of record by way of Form PTO-1449. A copy of the Form PTO-1449 is enclosed for applicant's files. Note that all prior art submitted has been considered.
- 3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 4. Claims 33-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis in the claims for "said damper" of claim 33, line 6.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

⁽b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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- 6. Claims 20-21, 25 and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by submitted JP 11-108106. See the submitted International Search Report and translation obtained by the examiner.
- 7. Claims 22-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The International Search Report indicates that claims 22-24 are unpatentable over JP 11-108106 in view of US6151930. The instant examiner does not agree with the conclusion in that the motivation or suggestion for arriving at the holding is not present in the references insofar as the instant examiner can determine. Applicants should keep the USPTO current if Chapter II proceedings take place which may involve further comments.
- 8. Claims 20-21, 25 and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 3724361 to Herberg, of record.

During loss of power to the damping apparatus of the single figure of Herberg, vibration is limited by use of secondary controller/voltage supply 92, 93.

9. Claims 20-21, 25 and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Vandermolen(US006082715).

Note secondary controllable 40, 42 for vibration control of filed controllable medium dampers 30 in Figure 2 of Vandermolen.

10. WO 03/072976A1 is cited to complete the record. The instant specification should include a cross-reference to the indicated publication.

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- 11. JP11-41805 and a corresponding translation are attached. JP11-41805 is similar to JP 11-108106
- 12. Note Wulff et al(56325361), of record, with means(permanent magnet field) for limiting vibration during power loss. See Oliver et al(US6419057), of record, with a control circuit for limiting vibration during power failure.
- 13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Butler whose telephone number is (703) 308-2575. The examiner is normally in the USPTO Monday-Friday from 5:30 a.m. to 2:00p.m. Although the examiner may not always be present in his office to immediately answer the phone when called, the examiner will make every effort to return the call as soon as possible. If the examiner does not answer his phone, the examiner suggests that a brief message be recorded on the examiner's voice mail machine when necessary and appropriate. The examiner normally checks recorded phone calls at least once a day unless on leave.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-11-12-2003

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DOUGLAS C. BUTLER MARY EXAMINER

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